

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SHEET METAL WORKERS LOCAL NO. 46
HEALTH FUND, et al.

Plaintiffs,

Case # 17-CV-6027-FPG

v.

DECISION AND ORDER

EAGLE MECHANICAL AND GENERAL
CONSTRUCTION LLC, et al.,

Defendants.

INTRODUCTION

Plaintiffs—several employee benefit plans and the associated union—brought this action alleging that Defendants failed to timely remit employee contributions to the plans. ECF No. 1. Defendant Eagle Mechanical and General Construction LLC (“Eagle”) is the employer, and Defendants Terry Lee Thompson and Kathy Thompson-McQuown¹ are officers of Eagle. In September 2018, the parties executed a stipulation of settlement to resolve the litigation. Plaintiffs now move for entry of judgment, arguing that Defendants Eagle and Terry Lee Thompson breached the terms of the settlement. ECF No. 29. Eagle and Terry Lee Thompson have not filed a response. For the reasons that follow, Plaintiffs’ motion is GRANTED.

BACKGROUND

Plaintiffs brought this action in January 2017. They alleged four claims against Defendants, all of which arose out of Defendants’ alleged failure to remit employee contributions

¹ By stipulation, Kathy Thompson-McQuown was dismissed from the action with prejudice. *See* ECF No. 35.

to the plans. The case proceeded through discovery until September 2018, when the parties reached a settlement. ECF No. 29-1 at 7-33.

As part of the settlement, Eagle and Terry Lee Thompson agreed to pay a portion of the owed amount and to accept additional oversight by the union. *See id.* at 13-15. The settlement made clear that if either defendant breached the settlement, Plaintiffs would be entitled to reopen this case and obtain judgment in the amount of \$187,320.70 (less any amount paid), along with interest, liquidated damages, attorney's fees, and costs. *See id.* at 17-18. Defendants agreed not to oppose such entry of judgment. *See id.* at 19.

Plaintiffs allege that Defendants breached the settlement by failing to remit installment payments in a timely manner and by failing to notify the union of their bids for work in the area. *See id.* at 4.

DISCUSSION

Based on the breach of the settlement agreement, Plaintiffs request that the Court enter judgment for \$305,874.64, which represents the outstanding owed payments, accrued interest, liquidated damages, attorney's fees, and costs, less the amount paid. *See* ECF No. 29-3 at 3-5. Plaintiffs also request interest of \$170.73 per day from March 30, 2019 until entry of judgment, which amounts to \$32,950.89. *See* ECF No. 29-1 at 17 (providing for such interest); *see also Citibank, N.A. v. Liebowitz*, 110 A.D.2d 615, 615 (N.Y. App. Div. 1985) ("It is well settled that when a contract provides for interest to be paid at a specified rate until the principal is paid, the contract rate of interest . . . governs until payment of the principal or until the contract is merged in a judgment.").

"[D]efault provisions in settlement agreements are commonly enforced." *Colburn Family Found. v. Chabad's Children of Chernobyl*, 739 F. Supp. 2d 614, 622 (S.D.N.Y. 2010) (collecting

cases). Absent a defense to enforcement, a court may enforce a settlement that provides for entry of judgment upon default. *See, e.g., Sheet Metal Workers' Nat'l Pension Fund v. Accra Sheetmetal LLC*, No. CV 11-2931, 2013 WL 868198, at *2-3 (E.D.N.Y. Feb. 14, 2013), *Report & Recommendation adopted*, 2013 WL 867650 (Mar. 7, 2013).

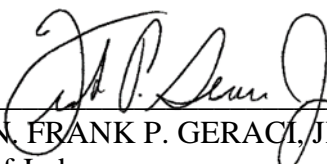
Here, Defendants have failed to file any response disputing Plaintiffs' allegations or entitlement to relief. In light of Plaintiffs' undisputed allegations, the plain language of the settlement agreement entitles them to relief. Furthermore, Plaintiffs have proven their damages, requested attorney's fees, and costs with supporting documentation and affidavits. Accordingly, the Court is persuaded that Plaintiffs are entitled to entry of judgment in the amount of \$338,825.53.

CONCLUSION

For the reasons discussed above, Plaintiffs' motion for entry of judgment (ECF No. 29) is GRANTED. The Clerk of Court is directed to enter judgment for Plaintiffs against Defendants Eagle Mechanical and General Construction LLC and Terry Lee Thompson in the amount of \$338,825.53. The Clerk of Court shall close the case.

IT IS SO ORDERED.

Dated: October 8, 2019
Rochester, New York



HON. FRANK P. GERACI, JR.
Chief Judge
United States District Court